



Local Government New Zealand

te pūtake matakōkiri

8 September 2006

NC35-04-1

**Agenda for the Regional Affairs Committee (RAC) Flood Management Sub-Committee
to be held from 2pm - 5pm on 13 September 2006
at *Local Government New Zealand*, 114 Lambton Quay, Wellington**

Meeting to be followed by a meeting with Ministers from 6.30 - 7.15pm

Tea and coffee on arrival from 1.30pm

- 2.00pm Welcome and Introduction - Ian Buchanan, Chair, Greater Wellington Regional Council
- 2.05pm Proposed Terms of Reference (ToR) for the RAC Flood Management Sub-Committee - Andrew Caseley, CE, Hawke's Bay Regional Council, Pages 2-5
- 2.30pm Flood Management Sub-Committee Composition – Michael McCartney, CE, Horizons Regional Council, Pages 6-7
- 3.00pm Political Environment Context, and Flood Management Timelines– Bill Bayfield, CE, Environment Bay of Plenty, & Susan Edwards, Manager Environment & Regulation, *Local Government New Zealand*, Pages 8-9
- 3.30pm Afternoon tea
- 3.45pm Roles and Principles for Future Direction of Flood Management – Graeme Martin, CE, Otago Regional Council, Pages 10-17
- 4.15pm Options for the Flood Risk Management Protocol – Susan Edwards, Manager Environment & Regulation, *Local Government New Zealand*, Pages 18-23
- 4.45pm Next steps
What We Want Out of the Process
Matters to Raise With Ministers This Evening
Items for *Local Government New Zealand* National Council 29 September
Other matters

Meeting concludes around 5.00pm.

Light meal

- 6.30pm Meeting with Ministers Jim Anderton (Agriculture), David Benson-Pope (Environment), Mark Burton (Local Government), Rick Barker (Civil Defence)

Meeting with Ministers concludes around 7.15pm.

Proposed ToR for the RAC Flood Management Sub-Committee

Andrew Caseley

Comment:

Attached to this paper are the draft ToR for the RAC Flood Management Sub-Committee. The sub-committee was formed at the RAC meeting on 18 August 2006. The RAC has asked the sub-committee to prepare a ToR for its work for sign-off by the RAC. However, as the next meeting of the RAC is not until 27 October 2006, there will be a need to work within the agreed ToR immediately pending final sign-off by RAC at their meeting in October.

Recommendation:

That the Regional Affairs Committee Flood Management Sub-Committee consider the attached proposed Terms of Reference and after clarification and amendments (if any), refer the Terms of Reference for sign-off by the Regional Affairs Committee at their meeting on 27 October 2006.

Andrew Caseley
Chief Executive
Hawke's Bay Regional Council/Member of Sub-Committee

Proposed Terms Of Reference

Purpose

- To develop a coordinated response from Local Government to Central Government's flood risk management review;
- To clearly identify issues that face local authorities when dealing with flood risk management and suggest potential solutions;
- To formulate a *Local Government New Zealand* policy position as to the needed roles and policies for Central Government involvement in catchment and river risk management;
- To influence Central Government's decisions on the flood risk management review recognising the lead role played by local authorities in: developing policy and initiatives which reduce the impacts of floods; establishing a state of readiness for flood events; providing a response to flood events; and recovering from flood events;
- To ensure conclusions reached by Government on the flood risk management review are soundly based and address the areas of greatest concern;
- To work with *Local Government New Zealand* to provide a whole of sector submission on the conclusions reached from the review.

Objectives/Key Deliverables

- Local Government will be actively engaged in the flood risk management review which includes the following work streams:
 - Current approach
 - Risk and mitigation
 - Future best practice
 - Funding and affordability
 - Legislative framework
 - Information transfer
 - The role of Central Government, Local Government and communities.
- That local authorities form a collective position on the actions required to better improve flood risk management;
- To identify those actions that could be best addressed by a collaborative approach between Councils or between Councils and Government;
- To understand the issues and needs of the sector;
- To liaise and consult with the sector throughout the review process;
- To liaise with key ministers (including the Ministers of Agriculture, Environment, Local Government and Civil Defence) as the review process progresses;
- To provide timely input into Cabinet decision making processes;

- To provide advice and recommendations via the RAC to *Local Government New Zealand* as to how the sector should react and respond to the proposals from the review.

Membership

- Bill Bayfield (Chief Executive - Environment Bay of Plenty);
- Ian Buchanan (Chairman - Greater Wellington);
- Stephen Cairns (Chairman - Otago Regional Council);
- Andrew Caseley (Chief Executive - Hawke's Bay Regional Council);
- Meng Foon (Mayor - Gisborne District Council);
- Clive Geddes (Mayor - Queenstown - Lakes District Council);
- Graeme Martin (Chief Executive - Otago Regional Council);
- Michael McCartney (Chief Executive - Horizons);
- Ian McKelvie (Mayor - Manawatu District Council);
- Basil Morrison (President - Local Government New Zealand);
- Steve Ruru (Chief Executive - Thames-Coromandel District Council);
- Rod Titcombe (Chief Executive - Manawatu District Council);
- Clive Manley (Chief Executive - Far North District Council).

Frequency and Location Of Meetings

The sub-committee will meet in Wellington as and when required in order to meet the flood management review timeline, which is attached.

Convenor

The Convenor of the sub-committee will be the Chairman.

Servicing

Local Government New Zealand will provide administrative support for the Sub-Committee with assistance from Member Councils on an as required basis.

Method of Operation

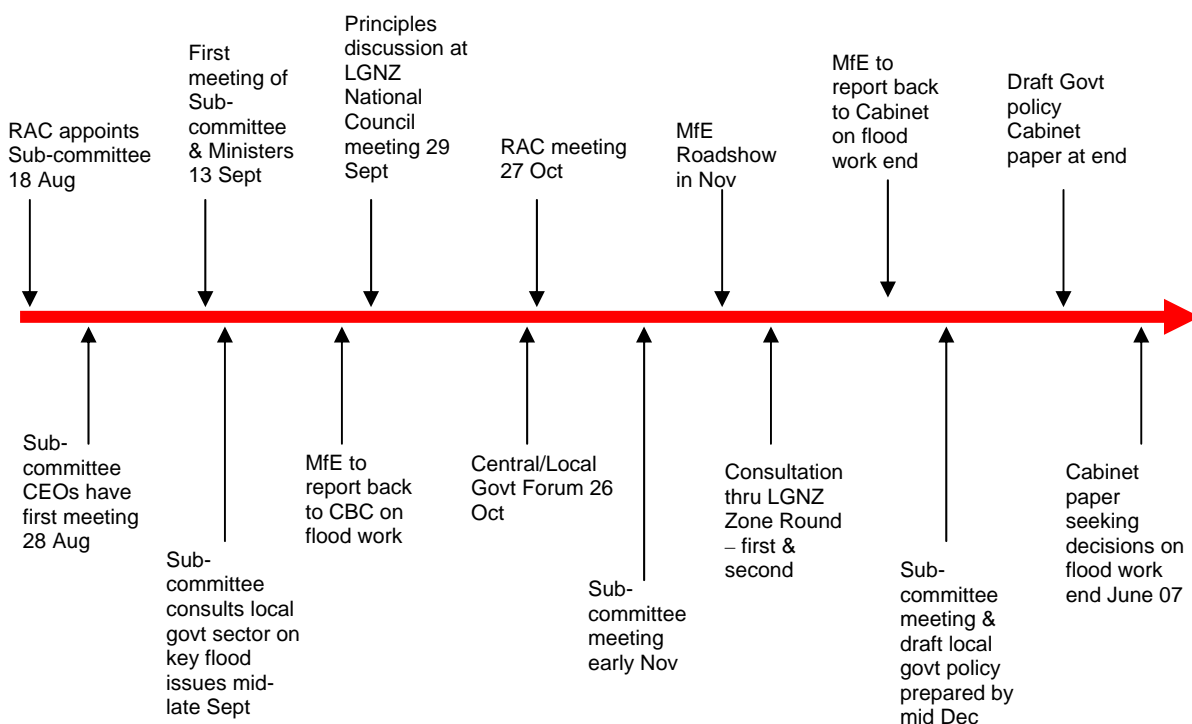
The Convenor will coordinate the compilation of agendas for each meeting which will be primarily based on the agreed actions and issues from previous meetings of the sub-committee.

Reporting

The sub-committee will report to the RAC who will subsequently report through to *Local Government New Zealand* to ensure a whole of sector approach.

Critical Dates

Below is the Flood Management Review timeline which incorporates the critical dates that must be met to ensure that the sectors views are considered and part of the review process being conducted by Government.



Flood Management Sub-Committee Composition

Michael McCartney

Purpose

This item seeks approval to vary the composition of the Flood Management Sub-Committee to achieve increased Chief Executive representation from Territorial Authorities (TAs).

Background

The recently formed Flood Management Sub-Committee is currently made up by three Mayors (one unitary), two Regional Council Chairs, the President of *Local Government New Zealand*, one District Chief Executive and four Regional Council Chief Executives. The composition of the committee provides board political representation from across the sector as well as Chief Executives who have either had extensive experience in flood management or have been directly involved in the oversight of the Flood Management Protocol. Whilst experience and skills are well catered for on the subcommittee as approved by the RAC an issue that may pose some difficulty is coverage in terms of District Council Chief Executive representation.

The Issue

On 28 August 2006 an initial scoping meeting was held between the five Chief Executives and the Chair of Greater Wellington (for part). This meeting provided an opportunity to identify potential issues with the task ahead, establish a timeframe for the subcommittee and identify items for this inaugural meeting.

One issue that arose was the concern that whilst there was good cover in terms of Regional Council Chief Executives, this was not the case for TAs. Given the scale of work that lies ahead within a condensed timeframe, the reality is that there will invariably be occasions when all members of the sub-committee will not be able to attend some meetings. Having at least someone from the respective sectors of local government at the table is important to the work before us.

We believe that the political representation and Regional Council Chief Executives on the sub-committee provides sufficient cover however this is not the case in relation to District Chief Executive representation. Steve Ruru is the sole Chief Executive representing TAs and we felt this may place an unrealistic expectation that he attends all meetings. Consequently the Chief Executives felt that adding two additional District Chief Executives would be appropriate to ensure continuity of representation.

The Solution

Adding two additional Chief Executives to the sub-committee will increase the composition to twelve - a large but still workable group. The question then arose as to who the additional Chief Executives should be. The suggestions were Chief Executive of the Far North District (Clive Manley) providing a boarder geographic representation and Chief Executive of

Manawatu District Council (Rod Titcombe) recognising his past role in SOLGM and the fact he is a leader in a frequently flood affected district.

Contact has been made with both these Chief Executives and both are willing to be part of the sub-committee and participate in the work ahead. What remains is a confirmation from this sub-committee that they support their inclusion.

Recommendation

1. That the RAC Flood Management Sub-Committee endorses the inclusion of the Chief Executives of the Far North District Council and Manawatu District Council onto the Flood Management Sub-Committee and that this decision is conveyed to the Regional Affairs Committee.

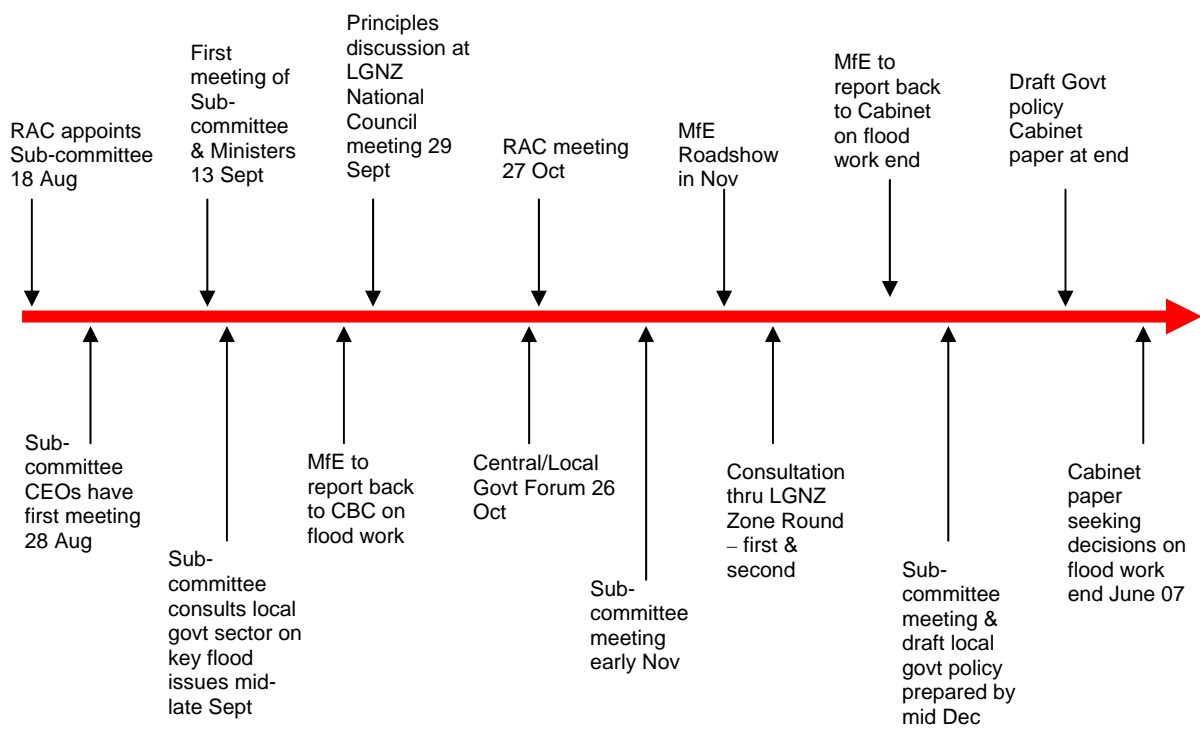
Michael McCartney
Chief Executive
Horizons Regional Council

Political Environment Context and Flood Management Time Lines

Bill Bayfield & Susan Edwards

Project Timeline for Reviewing Flood Management Response in New Zealand

28 August 2006 Governance Group	Past meeting date.
13 September 2006 Review Group Meets	Confirms scope of work and timeline. Prepares to engage Minister.
13 September 2006 Review Group Meets Minister	Minister agrees to proposed process, scope, and objective of moving protocol to NZ Standard. Minister agrees or amends timeline.
29 September 2006 LGNZ releases principles statement for discussion	Review Group develops package of high level options about flood management response. Engages with: <ul style="list-style-type: none"> ➤ Government Departments ➤ Local government ➤ Interest Groups eg insurance industry (Potentially two Review Group meetings.)
26 October 2006 Local Government Forum High level agreement and direction setting	Review Group continues development of package with Government Departments, Local government and interest groups seeking agreement from all parties.
26 October 2006 Local Government Forum High level agreement and direction setting	Minister and Review Group Chair announce agreement on: <ul style="list-style-type: none"> ➤ Work programme and timeline ➤ Objective of moving protocol to NZ Standard ➤ Methodology
23 December 2006 LGNZ position	Interactive development of <ul style="list-style-type: none"> ➤ Policy options ➤ Business case for options ➤ Requests for funding for work Consideration by RAC and NAC.



Flood and Catchment Management: Central Government's Involvement

Graeme Martin

Past Government Involvement and Reform [pre 1990]

1. The vast bulk of New Zealand's present-day multi-property flood protection works were built between 1950 and 1990 by Catchment Boards. The Boards used very substantial financial grants from the Government. Government assistance was refined and developed over the period from the passing of the Soil Conservation and River Control Act 1941 [SC&RCA] until the Central Government and Local Government reforms of 1988 and 1989.
2. Government financial assistance ranged across soil conservation, catchment management and river control works, including planning, design, and implementation, and also for maintenance and post storm damage recovery phases. Levels of financial grant varied significantly but for comprehensive "catchment control schemes" grant rates on construction of scheme components were typically in the range of 50 - 90% of total cost.
3. Access to Government grant funds was conditional on meeting scientific, engineering and economic criterion and evaluation. A nation-wide over-site and application of the Government's policies was undertaken by the National Water and Soil Conservation Authority [NWASCA]. The Authority was technically and administratively served by the Ministry of Works and Development [MWD].
4. The Government made major changes to its role and policies in regard to flood mitigation and flood recovery management over 5 years from the 1988 Budget closure of further entry into the NWASCA financial grant system.
5. Institutional and legislative reform dismantled all the Government machinery that had set and implemented a Government role in catchment and river control for soil conservation, erosion control, flood protection, and flood damage repair.
6. The primary impact of the changes was substantially concealed in the Central and Local Government reform processes of:
 - the March 1988 abolition of the MWD and the statutory quango NWASCA, and
 - the November 1989 abolition of Catchment Boards and Regional Water Boards with the concurrent creation of Regional Councils, and
 - a sequence of legislative changes, most notably the passing of the Resource Management Act 1991 [RMA] and the concurrent changes to the Soil Conservation and Rivers Control Act 1941 [SC&RCA], the Land Drainage Act 1908 and the River Boards Act 1908.

Present Government Involvement [post 1990]

7. The Government has no specific role or policy on flood or catchment management but:
 - A very small number of one-off cases of financial assistance have been given post 1989 to assist with the community costs of building flood defences.
 - The Building Act provides a 1:50 year freedom from flooding for certain classes of buildings.
 - The National Civil Defence and Emergency Management and Recovery Plans make some administrative and financial provisions for possible response and recovery support for events that are beyond Regional CDEM capacity.
 - Some one-off cases of ad-hoc financial and agency services assistance have been given for event recovery.
8. The Government is undertaking a review of flood and catchment management that is sufficiently widely scoped as to include the question of whether or not Government should have a role beyond the present CDEM role.

Stocktake of Experience.

9. The work of NWASCA up until its abolition was built out of the Soil Conservation and River Control Act and had embraced four key elements of good catchment management. These four elements were:
 - i. Soil conservation
 - ii. Erosion control
 - iii. River control
 - iv. Flood protection
10. In hindsight the four elements of catchment management were correct, had become reasonably well integrated, but had not been promoted in an all-together sustainable context. Initially the four elements were treated as being rather independent and in particular the land issues and river issues were not closely enough associated. However in latter years the concept of integrated catchment control was actively promoted, and encouraged with higher financial grants.
11. Key factors working against sustainable outcomes included:
 - A. A short term economic perspective.
 - B. A failure to consider residual risks.
 - C. Inadequate consideration and review against land-use, catchment, and river dynamics.
 - D. Inadequate community and individual "proprietorship" of a catchment perspective.
12. Today we urgently need to add climate variability, climate change and very dynamic land-use change to the mix of uncertainty and risk. And today this increased uncertainty and risk is set alongside increasing financial, technical, and legal difficulty to move toward a more holistic and sustainable catchment management regime.
13. NWASCA and MWD had well recognised the limitations of the approaches being used and had appropriately commissioned research on the problem. The most notable and comprehensive research report was the book *Creating Flood Disasters?* by N J Ericksen 1986, Water and Soil Miscellaneous Publication No. 77, published by NWASCA.

14. The 2005 publication *Managing Flood Risk - Draft New Zealand Protocol* edited by T J Day and published by the Centre of Advanced Engineering is the first serious New Zealand attempt to set out a catchment based, sustainable, flood risk and land-river management stratagem. It builds on the work by Ericksen and brings in today's knowledge of the uncertainties.

Possible Future Government Involvement.

15. Some under-pinning concepts might help guide development of future government engagement in catchment and river management.
16. Sustainable catchment and river management:
- A. is an individual, community and societal risk management problem
 - B. is at the intersection of dynamic social, economic, catchment and climate systems,
 - C. is not just a physical natural resource management,
 - D. is affected by, and affects, infrastructural and lifeline systems people depend on,
 - E. is one essential rational basis of planning, sustaining and protecting human use and habitation.
17. Looking to the future we must:
- a. manage the consequences of past catchment and river management decisions,
 - b. dynamically manage for known and foreseeable community, catchment and river behaviour,
 - c. regularly review management stratagems for continued validity and sustainability,
 - d. recognise that some communities will not be able to adapt to within societally acceptable risks without external help to effect change,
 - e. recognise that however catchments and rivers are managed, communities will have to live with and be able to safely respond to residual risks.
18. For shaping an expanded Government role and involvement in the future, some principles of approach would be useful. These might include:
- A. The Crown, as an affected property owner and occupier, will contribute on the same basis as all other affected property occupiers, to the costs of planning, implementing and maintaining catchment control and river control activities conducted by Local Government;
 - B. The Crown will set policy to actively encourage communities, via their Councils, to implement sustainable catchment and risk management that will reduce the recovery costs from weather events (Recovery costs include the array of social, economic, structural and catchment recovery activities)
 - C. The Crown will provide legislative processes and supporting policy to facilitate retreat from catchment, river and coastal circumstances that have incompatible land uses with unacceptable risk exposures.

Recommendation

19. That the Sub-Group consider this paper and provide an expression of view to guide development of an LGNZ suggested policy for the future role and responsibilities of Government in safe and sustainable catchment and river management.

Graeme Martin, Chief Executive, Otago Regional Council

Background paper No. 1. (A paper presented at the inaugural meeting of the Flood Protocol Governance Group)

The NWASCA Era. (Pre November 1989)

The framework for rivers and flood management was substantially reviewed and coherently established with the enactment of the Soil Conservation and Rivers Control Act 1941 (SC&RCA). This Act (and amendments) set the following key philosophies.

1. Mechanisms for river control and reduction of flood losses were provided at both community and individual scales.
2. Institutional structures were provided to allow the purposes of the Act to be promoted. These institutional structures involved responsibility for considering flood hazards and enabled actions to be taken for community benefit. A limited degree of coercion on property owners and ratepayers was provided.
3. Institutional structures recognised and provided for a very strong national interest oversight, direction and funding. This was achieved through the Soil Conservation and Rivers Control Council (SC&RCC).
4. Local rating powers for benefits derived from physical flood and land erosion mitigation measures.

The SC&RCA was allied with the Water and Soil Conservation Act 1967 (W&SCA), which established a revised regulatory regime for water, and with the Town and Country Planning Act 1977 (T&CPA), which established revised regimes for regional, district and maritime planning. These three Acts, all administered by the Ministry of Works and Development (MWD) exerted institutional and management control on floods, erosion, water use and land use.

The SC&RCC, and more latterly the National Water and Soil Conservation Authority (NWASCA), after legislative amendments morphed one into the other, was a potent force for influencing flood mitigation works. This strength of control and influence was by virtue of funding incentives for investigations, design, property purchase, construction, maintenance and flood repair. Very rarely did flood protection works proceed without Crown funding and thus Crown approval. This meant the SC&RCC and NWASCA could, *de facto*, specify flood protection standards and mitigation measures. The Crown agencies concentrated their focus on physical protection works although, as evidenced by the NWASCA commissioning of the "Ericksen" report¹, there was a dawning awareness that engineering works were not the universal answer to flood risk problems.

Through the NWASCA years of 1941 to 1988, promotion of flood protection works was done with increasing focus on economic benefit, ultimately tested by an internal rate of return requirement for funding support. Super-design event management and changing flood risk patterns (even those arising directly because of approved works) were not a conscious part of thinking. Engineering solutions were greatly advantaged against other forms of mitigation and the very dynamic nature of flood risks was largely ignored. In regulatory terms such issues were generally beyond legal challenge. Legal challenge was in essence confined to rating fairness, degree of benefit, property requirements, and recompense for detriment surrounding construction of physical flood defences.

The Regional Council Era. (Post November 1989)

When Regional Councils were formed it was into a massively changed institutional, social and legal framework. Many changes started abruptly in 1989 but some, such as the

¹ *Creating Flood Disaster*. Neil J Ericksen. Water & Soil Miscellaneous Publication Number 77, National Water and Soil Conservation Authority 1986. ISSN 0110-4705

Resource Management Act, were foreshadowed and were given final effect with legislation in the early 1990's. Immediate changes included:

1. National institutional frameworks and interest were removed - NWASCA and MWD had just been abolished in 1988; national funding for flood protection investigations, design, construction, and maintenance were terminated; and wider grant funding for administration and resource investigations for the SC&RCA and W&SCA ceased.
2. Flood damage and emergency support funding was largely withdrawn.
3. New works could only proceed if community consultative processes and appeals could be successfully navigated under the 1989 Local Government Act amendments and funding circumstances.

From 1988 to 1992, in accord with changing societal views, New Zealand locked into place a legislative stance giving strong weighting to individuals and their rights, thereby lessening the ability to implement programmes of strategic community and societal importance. This shift was accompanied by a growing litigiousness and political activism against rate funding unless strongly driven by user pays concepts. These changes included:

1. The Resource Management Act 1991 introducing wide environmental controls on environmental effects, including effects on property. In so doing it created very wide appeal potential, even on projects of community protection.
2. The Local Government Act Amendments of 1989 to 1992 introduced stronger public consultation processes and appeal rights for individuals.
3. Legislative changes removed a 75% majority criteria allowing imposition of works and rating contributions on flood protection scheme beneficiaries.

These changes were driven further by:

4. Local Government Act Amendments that introduced cash funding of depreciation on most council infrastructure.
5. The new Local Government Act 2002 strengthening consultative procedures, financial forecasting, and appeal potential for all significant Local Government projects.
6. Intensified use of appeals and litigation in defence of private property and personal rights, including rights for interested but not physically affected persons.

The key point from this history is that the national interest, funding, legislative, government, local authority, private institutional, business and social environment has undergone dramatic and exceptionally rapid change from 1988. This makes Regional Councils markedly less able to advance community flood mitigation projects than their predecessor NWASCA guided Catchment Authorities, yet the need for improved flood mitigation grows as flood risks change and increase.

Compounding these issues for Regional Councils is the fact that during the 40 plus years of the pre 1989 NWASCA era, relatively few flood mitigations were put in place given the vast national flood risk exposure. Mostly the mitigations done were rural schemes based around growth of primary production. The harder problems; problems not amenable to low cost low technology engineering works, problems of low probability high damage events, problems not resolvable with massive Crown financial incentive, and problems for which works done were but an expediency and palliative, were simply not part of the action. These tough problems were ignored and left to continue their insidious growth. These past problems now rest for Regional Councils to give response, to expose, and to solve. In the changed political, legal, business, social, and institutional circumstances this is a tough, almost impossible, task.

Professional Touchstones

Pre 1989 flood mitigation was very strongly influenced and directed by the Crown. The Ministry of Works and Development (MWD) was one of three control departments of the government. [The Treasury and the State Services Commission being the other two control departments] The MWD held responsibility for the Town and Country Planning Act, The Soil Conservation and River Control Act, the Water and Soil Conservation Act, the Building Act and the Public Works Act. The MWD was a unified public infrastructure investment and standards organisation with enormous effect on private land-use activities. The MWD was the service organisation of the SC&RCC and NWASCA, and the Minister of Works and Development had responsibility for appointing their membership.

These intertwined responsibilities of the MWD and NWASCA, together with the legislative and societal environment of the pre 1989 era, created a strong position of influence to be able to impose *de facto* standards for flood mitigation. Of most practise significance was that urban buildings and facilities should be protected from flooding at a return period of not less than the 100year flood event (1:100 or 1% probability). Rural areas had two *de facto* standards; the 50 year event and the 20 year event, the latter tending to be used only where buildings were not at risk. These *de facto* standards were in empathy with the Building Act protection standard of the 50 year event for single dwellings and public buildings.

The strength of the institutions influence ensured that these *de facto* standards were accepted and applied with little question and no litigation. These *de facto* standards were professional touchstones, grail, learnt by all, applied by all, and defended by all. But the changes post 1989 have changed all that. Now professional is pitted against professional, property developer/owner against Council, individual rights against public responsibility, environmental change against public protection. Our society can not return to a simple touchstone standard. Flood mitigation is far to complex an issue for that. What we now need is a professionally acclaimed process for sifting the issues; assessing needs, options and consequences; choosing what to do; and definitively dealing to the consequences of that choice.

An Illustration

Today many communities are becoming aware that they have a flood risk that is getting more complex. However many people and organisations affected by those risks are not prepared to accept mitigation measures that may impose funding costs, reduce property values, or reduce property potential / amenity. This leads to communities choosing a “do nothing” option for flood risk mitigation. No physical protection, and usually *ipso facto* no added land-use or building controls for existing property developments.

Such reactions are often justified by the reasonable probability that the flood will not happen in my time. The probability of a damaging event during current property tenures is often less than 50%. Mean tenure times are short, usually in the range 3 to 15 years, and the concern is about flood events of annual probability of 1:50 years to well beyond 1:100 years. But the one certainty is this: if there is a probability of a damaging flood event, it will happen.

If a community’s “do nothing” choice on physical protection works is to be sustained by a Council the consequences of that choice must be responded to. These consequences and responses are the mitigations (for society) that stem from the choice. Such response consequences may involve action to:

- Establish flood warning and flood forecasting systems that will help people to better manage life and property through a flood event (thereby reducing the cost and loss form the event)

- Impose planning and building controls (requiring floodable building design and/or protective positioning for all new buildings or alterations to existing buildings),
- Create bylaws for planned evacuation, temporary location, and return to affected areas (action being outside CDEM response plans and any declaration of a CDEM emergency),
- Set event triggered controls (thereby preventing or controlling re-establishment of buildings and services after a prescribed level of flood event, thus allowing the status quo meantime but not allowing it to be perpetuated to further flood events)

Mostly, if the “do nothing” option is chosen, the consequences of the choice are not dealt to. The necessary responses are not taken. This of course highlights the fact that there is no such option as the “do nothing” option. If a community has identified concerns about a flood risk, irrespective of whether or not mitigation by physical protection works are possible or acceptable, response actions must be taken.

All flood mitigation choices have their consequences that must be dealt to. For structural flood defences it will involve assured maintenance, response plans for foreseeable issues (e.g. debris accumulation, power failures), and the passage of super-design events.

Yesteryears design touchstones now seem to need to be replaced with a professionally and institutionally endorsed protocol for “community options, community choices, community responses”. And to make it all work well the community responses are likely to require some power of compulsion.

A programme of action

The meeting of 12 August 2004 is to explore the development of a “community options, community choices, community responses” protocol.

Background paper No. 2. (A note compiled for RCEO's to sum for MfE the flood risk characteristics faced by New Zealand)

Flood risk in New Zealand is characterised by the following identified risk factors:

- (a) Existing stopbanking with a design or operating limit that has no effective provision for larger river flows to be safely discharged.
- (b) Existing stopbanking that may perform inadequately because of riverbed aggradation, degradation or overloading of natural foundation materials.
- (c) Existing stopbanking that through land use and community changes might not afford appropriate protection levels for today's land uses.
- (d) Higher value land uses on flood plain areas that have no formal flood protection or flood mitigation measures.

Most flood protection works in New Zealand were constructed by Catchment Authorities to design philosophies and standards approved by the Ministry of Works & Development under policy requirements and funding assistance provided by Government via the National Water & Soil Conservation Authority. Few such works give flood protection beyond 1:100 year return period events, or have effective super design provisions, or incorporated rigorous foundation testing into their design and construction. Many schemes were designed for rural farmland protection at 1:50 year return period areas and foundations have been inferred as being adequate due to absence of known post damage or by specific repair of post damage or future.

Since 1989, with the advent of Regional Councils, the cessation of NWASCA grant for scheme repairs and maintenance, and requirements for asset management planning and funding of depreciation or loss of service potential, the servicability of flood protection schemes has greatly strengthened.

Options for the Flood Risk Management Protocol

Susan Edwards

Purpose

The purpose of this paper is to review the options for moving the protocol forward and to make a recommendation back to the RAC on the preferred option for taking the protocol forward.

Update on the Managing Flood Risk Protocol

Flood Governance Group Recommendation

The Flood Management Governance Group (made up of council chief executives [Graeme Martin, Andrew Caseley, Bill Bayfield and Steve Ruru], central government officials, professional body representatives and CAE) prepared a Managing Flood Risk Draft New Zealand Protocol, which was sent out to councils in February 2006 for comment by June 2006.

The Governance Group met in June to consider the next steps in terms of the draft protocol. The Group agreed that the protocol should be given some status and concluded that the draft protocol would probably be best developed into a New Zealand Standard.

Local Government New Zealand (LGNZ) National Council

The Governance Group sought endorsement from the *Local Government New Zealand* National Council of the New Zealand Standard approach as the next step for the protocol. A copy of the report to the National Council is attached.

The National Council referred the matter back to the RAC for discussion and further work, prior to making any decision. Matters raised by the National Council included:

- How making the protocol into a New Zealand Standard would fit with the overarching work on flood management being undertaken by the Ministry for the Environment. The work should not be done in a piecemeal fashion
- Whether there had been adequate consultation undertaken to involve territorial authorities in the work, including at the political level
- There would be significant land-use planning implications for territorial authorities
- There is a need to weave in the issue of state investment
- That a “one-size-fits-all” approach may not be appropriate
- The cost implications for councils of implementing the protocol once it has been turned into a Standard.

The RAC

The RAC considered the matter at its meeting on 18 August 2006 and resolved to:

“Ask the RAC Flood Management Sub-committee to review the options for moving the protocol forward and to come back to the RAC for a recommendation for the National Council on what the next steps with the protocol should be and how it could link in with the Government’s flood management work.”

Review of options

There are three main options for progressing the protocol: 1. do nothing and leave the protocol as a guide without any formal status, 2. use the protocol as the basis for developing a New Zealand Standard on flood management, and 3. use the protocol as the basis for preparing a National Policy Statement (NPS) or National Environmental Standard (NES) under the Resource Management Act (RMA). The main pros and cons of these options are outlined in the table below.

Option	Pros	Cons
1. Do nothing	<ul style="list-style-type: none"> - flexibility for councils to either adopt the approach or to take no action or a different approach - no implementation costs on councils other than what they elect to do 	<ul style="list-style-type: none"> - lack of leadership by the local government sector on addressing flood risk management. If local government does not take a lead it is possible that central government would develop a much more prescriptive and nationally driven approach to flood risk management (e.g., a NPS or NES) - unlikely to achieve much improvement in flood risk management or in collaboration between agencies - will not enable further consultation
2. NZ Standard	<ul style="list-style-type: none"> - a NZ Standard would demonstrate a willingness of local government to take leadership - the NZ Standard becoming a best practice default is likely to encourage councils to adopt it in some form, thereby taking some action on flood risk management - enables wider consultation and input from local government sector and stakeholders - provides opportunity and process for concerns to be identified - provides opportunity for protocol to be amended to address concerns - the NZ Standard would be non-prescriptive and voluntary - the NZ Standard could be adopted by councils as is or with amendments, therefore, allows for local needs and preferences, and provides flexibility - a NZ Standard would lessen the likelihood of legal challenge & help unite professionals 	<ul style="list-style-type: none"> - the NZ Standard could become a default best practice standard against which council performance is assessed. If councils do not meet the Standard they could be seen as wanting - there are likely to be some costs associated with implementing the Standard - being non-compulsory means that councils could still elect to do nothing - the NZ standard approach could be seen as a “one-size-fits-all” approach - provides an easy option instead of councils adopting the approach best suited to the particular circumstances, if it does not contain sufficient flexibility
3. NPS/NES	<ul style="list-style-type: none"> - the NPS/NES approach enables wider consultation and input from local government sector and stakeholders 	<ul style="list-style-type: none"> - lack of leadership by the local government sector on addressing flood risk management, leaving it to central government to take the lead

	<ul style="list-style-type: none"> - provides opportunity and a process for concerns to be addressed - the NPS/NES approach would provide greater consistency of flood management across NZ by being prescriptive and non-voluntary - a NES.NPS could help unite professionals working in flood management 	<p>on the matter</p> <ul style="list-style-type: none"> - NPS/NES would be a directive, national approach, and is unlikely to allow as much flexibility as a NZ Standard to accommodate local variation, needs and preferences. - NPS/NES may be more prescriptive in terms of what has to be done and by when, so could have greater costs of implementation than a Standard - the NPS/NES process is cumbersome and hard to do - the NPS/NES approach could lead to more legal debate than the NZ Standard - flood risk management is not a purely RMA related matter, whereas the preparation of a NPS/NES is done under the RMA, therefore not all matters that could be covered under a NZ Standard could be incorporated into a NPS/NES.
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As outlined in the table, each option has differing pros and cons. The preferred option is to use the protocol as the basis for developing a New Zealand Standard.

It will be important to address the issues raised by the National Council. These are dealt with in the following table.

National Council issue	Response
How making the protocol into a New Zealand Standard would fit with the overarching work on flood management being undertaken by the Ministry for the Environment. The work cannot be done in a piecemeal fashion.	The Ministry for the Environment supports the development of the protocol into a NZ Standard, as it provides a mechanism and approach for addressing flood risk management. Ministry officials note that the NPS/NES approach under the RMA could not adequately address the full range of issues needed for flood risk management.
Whether there had been adequate consultation undertaken to involve territorial authorities in the work, including at the political level	The process to develop a New Zealand Standard for flood risk management would require the formation of a widely representative specialist standards committee under the auspices of Standards New Zealand. The process ensures that the appointed standards committee would engage a very wide audience of professionals and key user/affected groups from both public and private sectors in developing the standard. When (and if) a draft standard is agreed by the committee it would be widely advertised and available for public submissions. Every submission is considered by the committee and the draft modified as appropriate before it is recommended to be approved by the Standards Association and formally promulgated. Commencing the process does not presume a Standard will necessarily eventuate.
There would be significant land-use planning implications for territorial authorities	The NZ Standard development process enables concerns of stakeholders to be considered. This would enable territorial authorities to raise their concerns and any amendments to be made to the draft protocol prior to

	formalising it (with amendments) as a NZ Standard. It is possible that the draft protocol may change significantly prior to being finalised.
There is a need to weave in the issue of state investment	Although the issue of state investment could be raised through the NZ Standard approach, it is essentially a funding issue that would be more appropriately addressed through the funding review project and/or direct negotiation with the Government. This may not be the best forum for addressing this issue. It certainly could not be used to bind the Government to provide funding.
That a “one-size-fits-all” approach may not be appropriate	If drafted appropriately the NZ Standard could be flexible enough to enable local needs and circumstances to be taken into account. A voluntary and flexible NZ Standard is preferable to a nationally driven, prescriptive and compulsory mechanism (e.g., NPS/NES)
The cost implications for councils of implementing the protocol once it has been turned into a NZ Standard	The NZ Standard could be developed in a way that would enable councils to implement it in a manner affordable for their communities. There are cost implications of implementing good flood risk management, but these need to be weighed against the costs of doing nothing.

Thoughts on the next steps for the protocol

The RAC Flood Management Sub-committee reviews the options for moving the protocol forward and makes a recommendation to the RAC on the preferred option for moving the protocol forward. Any recommendation passed by the RAC would need to be referred to the National Council for adoption.

Recommendations:

That the Regional Affairs Committee Flood Sub-committee **agrees** that the preferred option for taking the protocol forward would be to progress along the NZ Standard approach and **advises** the Regional Affairs Committee and the National Council of the pros and cons of this approach versus the other options considered.

Susan Edwards
 Manager, Environment and Regulation
Local Government New Zealand

29 June 2006

NC10-02

**Report to National Council
15 July 2006**

Agenda Item 5: Policy Issues (for decision)

5(f): Flood Management

Purpose

To seek National Council endorsement to the recommendation by the Flood Governance Group for the *Managing Flood Risk Draft New Zealand Protocol* to be submitted for development into a New Zealand Standard. A copy of the draft protocol is enclosed for your information.

Background

Last year the Regional Councils worked with the Centre for Advanced Engineering (CAE) on developing a draft flood management protocol for New Zealand. The *Managing Flood Risk Draft New Zealand Protocol* was published and distributed to all councils for comment in February this year. The closing date for comment was 30 June 2006. Copies of the draft protocol were personally addressed to all Mayors/Chairs, Chief Executives and Planning Executives in local authorities, as well as to relevant professional groups and Government Departments. At the time of writing this report very little feedback had been received. The comments that have been received are supportive.

The purpose of the draft protocol is to provide councils with an improved framework for managing their flood risk management responsibilities. The elements of the framework include:

- natural river and catchment processes as non-negotiable constraints of river modifications
- interactions of natural and social systems, under a sustainability umbrella
- context-based decision-making
- continuing community engagement
- appropriate forms and levels of protection
- recognition and treatment of residual risks
- adaptive management principles.

The protocol looks at the role of both structural measures (e.g., stopbanks) and non-structural measures (e.g., hazard planning, raising floor levels) - in other words 'keeping the water away from people and people away from the water'. It examines how both measures can be used in conjunction with each other to manage flood risks in communities.

Where to next with the draft protocol?

The Governance Group (made up of regional council chief executives, central government officials, professional body representatives and CAE) overseeing the development of the draft protocol met on 13 June to review the comments received to date and to look at what further might be done to:

- meld the draft protocol with the Government's flood management review, and
- give support to implementing the draft protocol across the public and private sector interests involved in flood risk management.

The Governance Group has agreed that the draft protocol now needs to be given some formal status. The Group has concluded that the draft protocol would probably be best developed into a New Zealand Standard. It is envisaged that a suitable standard would be process oriented after the form and content of the draft protocol, rather than being moved more toward a quantitative specification standard.

The Governance Group considers that a New Zealand Standard based on the draft protocol would provide a basis for professional and community discussion, design and implementation of flood risk management measures. The Standard could be voluntarily adopted by councils in its final form or varied prior to adoption to suit local needs, preference or circumstances. The standard would effectively be a best practice guideline available for use by councils.

The process to develop a New Zealand Standard for flood risk management would require the formation of a widely representative specialist standards committee under the auspices of Standards New Zealand. The process ensures that the appointed standards committee would engage a very wide audience of professionals and key user/affected groups from both public and private sectors in the development of the standard. When (and if) a draft standard is agreed by the committee the draft would be widely advertised and available for public submissions. Every submission must be considered by the committee and the draft modified as appropriate before it is recommended to be approved by the Standards Association and formally promulgated. Commencing the process does not presume a standard will necessarily eventuate.

Who would pay for the development of the standard?

Funding for development of the standard could come from three sources (most likely a combination of them):

- local authorities
- central government (e.g., Ministry for the Environment)
- the Insurance Council

National Council support sought for a flood risk management New Zealand Standard

The Governance Group seeks the endorsement by the National Council to the proposal for the draft protocol to be submitted for development into a New Zealand Standard.

The Group considers that the process of developing a standard will enable wide consultation and input from interested parties. It would provide the opportunity for areas of concern to be raised and considered. A key area of concern for territorial authorities may be the ability of regional councils to influence land use controls in flood prone areas. The New Zealand Standard approach would be preferable to the use of regulatory methods (e.g., the development of a National Environment Standard under the Resource Management Act) or leaving the draft protocol as a guidance document without any formal status. It would also show leadership from the local government sector on the issue of flood risk management. The Standard could feed into the Review of Flood Management being undertaken by the Ministry for the Environment.

Recommendation

That the National Council **ENDORSE** the recommendation by the Flood Governance Group for the *Managing Flood Risk Draft New Zealand Protocol* to be submitted for development into a New Zealand Standard.

Eugene Bowen
Chief Executive
Local Government New Zealand